

IN THE UTAH COURT OF APPEALS

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State of Utah, in the interest	)	MEMORANDUM DECISION
of S.R., a person under	)	(Not For Official Publication)
eighteen years of age.	)	
_____	)	Case No. 20050457-CA
	)	
J.A.,	)	F I L E D
	)	(July 21, 2005)
Appellant,	)	
	)	2005 UT App 328
v.	)	
	)	
State of Utah,	)	
	)	
Appellee.	)	

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Third District Juvenile, Salt Lake Department, 448672  
The Honorable Andrew A. Valdez

Attorneys: Julie George, Salt Lake City, for Appellant  
Mark L. Shurtleff and John M. Peterson, Salt Lake  
City, for Appellee  
Martha Pierce and Anthony Ferdon, Salt Lake City,  
Guardians Ad Litem

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Before Judges Billings, Bench, and Greenwood.

PER CURIAM:

J.A. (Father) appeals the juvenile court's termination of his parental rights in S.R. Father asserts that his rights should not have been terminated because he is not unfit, he will be released from incarceration soon, and he has been accepted into an inpatient drug treatment program upon his release. Father's assertions of what his future may hold do not demonstrate that the juvenile court erred in finding grounds to terminate his parental rights.

In reviewing the termination of parental rights, this court "will not disturb the juvenile court's findings and conclusions unless the evidence clearly preponderates against the findings as made or the court has abused its discretion." In re D.B., 2002 UT App 314, ¶6, 57 P.3d 1102.

The juvenile court found multiple grounds for termination of Father's parental rights. See Utah Code Ann. § 78-3a-407 (2002). Any single ground is sufficient to terminate parental rights. See id. (providing court may terminate parental rights if it finds "any one of" the listed grounds); In re D.B., 2002 UT App 314 at ¶13 n.4. The determination that Father is unfit is supported both by Father's history of violence and by his extended incarceration. Father had documented and serious incidents of domestic violence, including the incident that resulted in his incarceration. The juvenile court was required to consider Father's violent history as evidence of unfitness. See Utah Code Ann. § 78-3a-408(2)(f) (2002).

Additionally, his sentence of up to five years on a felony charge, his incarceration for almost the whole of S.R.'s life, and S.R.'s custody in the Division of Child and Family Services (Division) provide evidence of Father's unfitness. See id. § 78-3a-408(2)(e) (requiring the juvenile court to consider as evidence of unfitness a parent's incarceration where the child is in division custody and the parent's incarceration will deprive the child of a normal home for more than one year); In re D.B., 2002 UT App 314 at ¶¶9-13. Although Father hoped he would get time off for good behavior, he was required to serve at least one year of his sentence. It appears his release date will be after one year, thus depriving S.R. of a normal home for more than one year. With S.R. in Division custody, Father's extended incarceration supports the juvenile court's determination of unfitness.

The juvenile court also found that there was a substantial likelihood that Father would be unable to exercise proper and effective parental care in the near future, providing grounds for termination under section 78-3a-407(d). Grounds for termination under section 78-3a-407(d) are established if the child is in an out-of-home placement under supervision of the Division, the parent has been unwilling or unable to remedy the circumstances that caused the out-of-home placement, and "there is a substantial likelihood that the parent will not be capable of exercising proper and effective parental care in the near future." Utah Code Ann. § 78-3a-407(d). The record establishes that S.R. was in an out-of-home placement and that Father was unable to remedy the circumstances of the placement because he was incarcerated. Additionally, after his release, Father would still have to enter an inpatient treatment program, and after that would have to find employment and stable housing. This process would take several months to more than one year. The juvenile court did not err in finding that there was a substantial likelihood that Father would not be able to effectively parent S.R. in the near future.

In sum, the record supports the juvenile court's findings of grounds for termination of Father's parental rights. Accordingly, the termination of Father's parental rights is affirmed.

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Judith M. Billings,  
Presiding Judge

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Russell W. Bench,  
Associate Presiding Judge

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Pamela T. Greenwood, Judge